

APPLICANTS' ELECTION WITH TRAVERSEThe Examiner's Restriction Requirement

The Examiner has required Restriction of the claim set under 35 U.S.C. 121 and 372. The Examiner states that the application contains two inventions not so linked as to form a general inventive concept under PCT Rule 13.1. The Examiner has grouped the claims into Group I, claims 1-14, drawn to an absorbent article and Group II, claims 15-20, drawn to a method of making an absorbent article.

Pursuant to a Telephone Communication with the Examiner on November 6, 2001, Applicants made a provisional election with traverse to prosecute the invention of Group I, claims 1-14. Applicants hereby confirm that election with traverse. Accordingly, claims 15-20 are cancelled. However, Applicants respectfully traverse the requirement, as the Examiner has not demonstrated that the restriction is proper.

The MPEP at section 1.475 states:

“An international or a nations stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

A product and a process specially adapted for the manufacture of said product;...”

Applicants assert that non-elected claims 15-19 are drawn to a process for the manufacture of the laminate required as a material in the absorbent article of elected claim 1. Claim 20 is drawn to the backsheet material itself. Claim 15, and claims 16-20, which are dependent upon it, are all ultimately dependent upon claim 1.

In the Office Action dated December 1, 2001, the Examiner states: “The inventive concept of Group I is a two-layer backsheet wherein the layers have different levels of breathability, while the inventive concept of Group II is a method of making a backsheet material with zones of differing breathability.” However, claim 1, line 13-16, clearly states: “...whereby the core backsheet material and the chassis backsheet material which comprises said unitary layer exhibit different degrees of breathability such that MVTR values of the core backsheet material is lower than of the chassis backsheet material...” The **reason** that the layers of the two-layer backsheet have different levels of breathability is **in order to impart** zones of differing breathability to this same two-layer backsheet material. Applicants assert that the restriction requirement is improper and should be withdrawn.

CLAIM REJECTION UNDER 35 USC §112The Examiner's Objections to the Claims

The Examiner's objection to the use of the term "or film-like" has been addressed in the amendments to claim 1 above. In addition, claim 1 has been amended to clarify the antecedent basis for the limitation "polymeric film layer" in lines 11 and 17. Claim 2 has been amended by the insertion of the term "the" before "fibrous layer". As the antecedent basis for the use of the phrase "said polymeric film layer" was clarified in claim 1, the use of that phrase in claims 2, 8, 11, 12 and 13 should be acceptable.

Claim 9 has been amended to clarify the antecedent basis for the laminate.

CONCLUSION

For the foregoing reasons, Applicants respectfully submit that restriction in the present case is improper and request that the restriction requirement be withdrawn. However, if the restriction is made final, Applicants choose to prosecute claims 1-14, as amended in the present response. Additionally, the amendments above should obviate the Examiner's rejection of the claims based on 35 U.S.C. 112. Accordingly, favorable reconsideration of claims 1-20 is earnestly solicited in the form of a Notice of Allowance.

Should any issues impeding continuing examination of this Application remain, the Examiner is encouraged to contact the undersigned by telephone at the earliest possible date to achieve a timely resolution.

Respectfully submitted

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. Absorbent article comprising
an absorbent core defining a core region comprising a core backsheet material ;
a chassis region surrounding said core region comprising a chassis backsheet material;
whereby at least the core backsheet material comprises a laminate;
said laminate comprising at least one layer comprising a vapour or gas permeable
polymeric film [or film-like] material, and further comprising a fibrous layer
positioned towards the outer side of the article during its intended use,
characterized in that
said at least one polymeric film layer is a unitary layer extending both into the core
backsheets material and the chassis backsheet material,
and whereby the core backsheet material and the chassis backsheet material which
comprises said unitary layer exhibit different degrees of breathability such that MVTR
[values] value of the core backsheet material is lower than of the chassis backsheet
material, and wherein said polymeric film layer comprises a polymeric matrix and
particulate filler material embedded in said matrix.
2. An absorbent material according to claim 1, wherein the polymeric film layer is wider
than the fibrous layer.
9. An absorbent article according to Claim 1, whereby said laminate [layer in the region]
has a basis weight of less than 70 gsm where it comprises said film and said fibrous
layer.